

Official: U.S. to seek death^{B5} penalty for 6 Gitmo detainees

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- Story Highlights
- Government expected to announce charges, pursuit of death penalty Monday
- A judge would have to approve the charges, death penalty
- If approved, it will mark the first time a Guantanamo detainee has faced trial
- Controversy surrounds detainees' due process, how detainees were interrogated

WASHINGTON (CNN) -- The United States will seek the death penalty against six Guantanamo Bay detainees who are suspects in the September 11, 2001, terrorist attacks, a senior U.S. official said.

The government is expected to announce Monday that it will submit criminal charges against the detainees, which include alleged 9/11 mastermind Khalid Sheikh Mohammed, according to the official.

The official spoke on condition of anonymity because the government has not made an official announcement.

All six suspects are accused of helping plan the attacks on the World Trade Center in New York and the Pentagon in Washington, the official said.

The New York Times quoted an official familiar with the case as saying that the other five detainees expected to be charged are: Mohammed al-Qahtani, the so-called 20th hijacker in the 9/11 attacks; Ramzi bin al-Shibh, accused of being an intermediary between the hijackers and al Qaeda leaders; Ali Abd al-Aziz Ali, who has been identified as Mohammed's lieutenant; al-Baluchi's alleged assistant, Mustafa Ahmed al-Hawsawi; and Walid bin Attash, who is accused of selecting and training some hijackers.

Military prosecutors will submit the charges along with a request to seek the death penalty in the cases, and a judge will have to approve charges and the request, the senior official told CNN.

A military commission would thereafter be held at the U.S. Naval Base Guantanamo Bay, Cuba.

If a judge approves the charges, it will mark the first time that Guantanamo detainees have been charged in the September 11 attacks.

About 380 foreign nationals are being held at Guantanamo. The detainees' lawyers have repeatedly complained that their clients are being denied due process.

The U.S. Supreme Court also has twice expressed reservations about how the government handles detainees at the U.S. naval base.

In 2006, the high court struck down the Bush administration's use of military tribunals to try terror suspects, saying the process was unconstitutional because the system did not allow prisoners to challenge their detention. Congress later passed the Military Commissions Act, which provided terror suspects with a limited right to appeal any conviction. It also reduced the jurisdiction of federal courts.

Another issue expected to be raised is whether prosecutors will be able to use confessions or other information gleaned using controversial interrogation techniques.

On February 5, CIA Director Michael Hayden for the first time publicly confirmed Mohammed and two other terror suspects were subjected to a technique called waterboarding, which is intended to simulate drowning. The technique was used on top al Qaeda detainees in the aftermath of the September 11 attacks, Hayden said. "The CIA has not used waterboarding for almost five years," Hayden said. "We used it against these three high-valued detainees because of the circumstances of the time."

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He later defended the use of waterboarding as necessary when "an unlawful combatant is possessing information that would help us prevent catastrophic loss of life of Americans or their allies."

But he raised doubts about whether the technique would be considered legal today and reiterated that the technique is not presently part of the interrogation program.

CNN's Barbara Starr contributed to this report.

All About Guantanamo Bay • September 11 Attacks

LeBaron, Richard B (London)

From: Wierichs, F. Joe
Sent: Monday, February 11, 2008 3:46 PM
To: EUR-PPD-PAO-DL; EUR-PPD-IO-DL; EUR-DCM-DL
Cc: Sreebry, Daniel (London); Korman, Samuel I; Armstrong, Bruce W; Toussaint, Marianne S; Oppenheimer, Laura E; Santamaria, Elodie M; Elbow, Susan M
Subject: Short-fuse -- Conference Call w/Legal Adviser John Bellinger in re: CNN -- Official: U.S. to seek death penalty for 6 Gitmo detainees

Importance: High

Colleagues:

This promises to be a big story for many of us: "CNN: Official: U.S. to seek death penalty for 6 Gitmo detainees."

Legal Adviser John Bellinger will hold a conference call this afternoon (11:30 am EST) for all interested EUR posts. The purpose of the call is to brief communicators at posts on messaging and the state of play in light of recent developments; he will also take questions. Bellinger himself will not be doing media but is happy to help out behind the scenes, as with this call. Given the short fuse, the conference call will take all comers – AMBs, DCMs, PAOs, IOs, PolOffs – anyone who might be called upon to explain our policy. Be advised that there are 40 lines available.

The details:

CALL TIME: 11:30 AM EASTERN

DIAL-IN NUMBERS:

(for international callers) 1-210-234-0002 (toll free with in US) 1-888-810-3949

PARTICIPANT PASSCODE: 15313

For security reasons, the passcode and the leader's name will be required to join your call.

LEADER: MR BRUCE ARMSTRONG

Thanks, and best regards,

Joe Wierichs, "The Hub"

(Scroll down for the text of the CNN story.)

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CNN's Barbara Starr contributed to this report.

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LeBaron, Richard B (London)

From: Bellinger, John B(Legal)
Sent: Wednesday, February 06, 2008 10:05 PM
To: LeBaron, Richard B (London)
Subject: Re: Ditchley Ride

That's no problem Rich. I can take the train or get a car.

----- Original Message -----

From: LeBaron, Richard B (London)
To: Bellinger, John B(Legal)
Sent: Wed Feb 06 13:28:43 2008
Subject: Ditchley Ride

Ambassador regrets that he doesn't have room for you in the car to go to Ditchley. Mrs. Tuttle is going and it would be just too snug in the back seat for three.

RL

LeBaron, Richard B (London)

From: Bellinger, John B(Legal)
Sent: Friday, February 01, 2008 12:30 PM
To: LeBaron, Richard B (London)

[Redacted]

B5

----- Original Message -----

From: LeBaron, Richard B (London)
To: Bellinger, John B(Legal)
Sent: Fri Feb 01 06:54:20 2008

[Redacted]

B5

Freedom Of Information: Government blocks access to secret military papers on Diego Garcia
The role of the British-owned Indian Ocean island of Diego Garcia in the detention of terror suspects remains unproven. There may be more to know, says Robert Verkaik, Law Editor Friday, 1 February 2008 MPs and human rights group have accused ministers of a cover-up over government knowledge of rendition flights and the use of British military bases to hold suspects after the United States launched its war on terror more than six years ago.

Now ministers have blocked an attempt by an influential parliamentary committee to secure the release of secret military papers which they believe will reveal whether the British island territory of Diego Garcia was used as a detention centre for rendition prisoners. MPs from the All-Party Parliamentary Group on Extraordinary Rendition used powers under the Freedom of Information Act to request minutes of US/UK political military talks held in a Washington in September last year.

But the Government has refused to release the papers claiming that to do so "would prejudice the defence" of territory by "exposing plans to counter possible terrorist

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attacks". They also say it could damage diplomatic relations between Britain and America. The Parliamentary Group chairman, Andrew Tyrie MP, says this is another example of government obfuscation in his committee's attempt to get to the truth about the use of state-sanctioned kidnapping on the British island. He has launched an appeal against the Foreign Office decision not to release the Diego Garcia documents.

"Cover-up and obfuscation by the UK government have hampered efforts to discover the truth about British involvement in the US rendition programme from day one," he says. "There have been repeated allegations that the US has used the British territory of Diego Garcia in its rendition programme. Yet the Government has done next to nothing to investigate them, and continues to rely on US assurances which have been called into question by the Intelligence and Security Committee."

The Government has been careful to say as little as possible about what it does or doesn't know about US "ghost flights" in which suspects are flown from secret prisons to third party state detention centres. In the past it has relied on US assurances that no British territory loaned to the Americans has or is being used to facilitate this illegal activity.

But the UK human rights charity Reprieve has uncovered credible evidence which it believes casts doubt on these assurances. In its report on rendition published last year it says that Diego Garcia has been the subject of repeated, credible and concurrent claims that the island has played a major role in the US system of renditions and secret detention. Reprieve submits that the UK's failure to conduct a prompt, independent and effective inquiry into these claims is a further clear breach of its duties under international and domestic law.

"Unlike the treatment of our clients who were apparently held there without charges or trial, we are very glad for the UK government to have a fair hearing before standing condemned of complicity in kidnapping and abuse of prisoners," says Clive Stafford Smith, Director of Reprieve. "But they cannot simply refuse to hold a public hearing at all and expect us to believe their denials, when senior US officials have more than once admitted that Diego Garcia has been used in the illegal rendition programme."

"It is the policy of extraordinary rendition which damages the public interest, not allowing the truth to be told about it," says Mr Tyrie. "That is why I am appealing against this decision, and will continue to do what I can to uncover the truth about rendition and Diego Garcia."

In a separate move, the MPs have written to an American general asking him to give evidence about rendition on the Indian Ocean island. General Barry McCaffrey has twice claimed in interviews with the media that detainees are being held by the US military on the island.